

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

1. CAESAR MERCEDES,
2. FRANCISCO NAVARRO, and
3. NOEL HERNANDEZ

Defendants.

04 CR 10319 WGY
)
) Criminal No.
)
) VIOLATIONS:
)
) 21 U.S.C. § 963 - Conspiracy to
) Import Heroin
)
) 21 U.S.C. § 952(a) - Illegal
) Importation of Heroin
)
) 18 U.S.C. § 2 - Aiding and
) Abetting
)
) 21 U.S.C. § 853 - Criminal
) Forfeiture
)

INDICTMENT

COUNT ONE: (21 United States Code, Section 963 - Conspiracy
to Import Heroin)

The Grand Jury charges that:

From an unknown date but at least by in or about May 2004
and continuing until on or about July 13, 2004 at New York City,
at Boston in the District of Massachusetts, at Puerto Rico, at
the Dominican Republic, and elsewhere,

1. CAESAR MERCEDES,
2. FRANCISCO NAVARRO, and
3. NOEL HERNANDEZ,

defendants herein, knowingly and intentionally combined,
conspired and agreed with other persons known and unknown to the
Grand Jury, to import into the United States, from a place
outside thereof, namely the Dominican Republic, a quantity of

Heroin, a Schedule I controlled substance, in violation of Title 21, United States Code, Section 952(a).

It is further alleged that the conspiracy involved one hundred (100) grams or more of a mixture and substance containing a detectable amount of heroin, a Schedule I controlled substance. Accordingly, Title 21, United States Code, Section 960(b)(2)(A) applies to this offense.

All in violation of Title 21, United States Code, Section 963.

**COUNT TWO: (21 United States Code, Section 952(a) -
Illegal Importation of Heroin; 18 United
States Code, Section 2 - Aiding and
Abetting)**

The Grand Jury further charges that:

On or about July 13, 2004, at Boston in the District of
Massachusetts,

**1. CAESAR MERCEDES, and
3. NOEL HERNANDEZ**

defendants herein, in furtherance of the conspiracy charged in
Count One, did knowingly, intentionally and unlawfully import
into the United States, from a place outside thereof, namely the
Dominican Republic, a quantity of Heroin, a Schedule I controlled
substance.

It is further alleged that this offense involved one hundred
(100) grams or more of a mixture and substance containing a
detectable amount of heroin, a Schedule I controlled substance.
Accordingly, Title 21, United States Code, Section 960(b)(2)(A)
applies to this offense.

All in violation of Title 21, United States Code, Section
952(a), and Title 18, United States Code, Section 2.

**COUNT THREE: (21 United States Code, Section 952(a) -
Illegal Importation of Heroin; 18 United
States Code, Section 2 - Aiding and
Abetting)**

The Grand Jury further charges that:

On or about July 13, 2004, at Boston in the District of
Massachusetts,

**2. FRANCISCO NAVARRO, and
3. NOEL HERNANDEZ,**

defendants herein, in furtherance of the conspiracy charged in
Count One, did knowingly, intentionally and unlawfully import
into the United States, from a place outside thereof, namely the
Dominican Republic, a quantity of Heroin, a Schedule I controlled
substance.

It is further alleged that this offense involved one hundred
(100) grams or more of a mixture and substance containing a
detectable amount of heroin, a Schedule I controlled substance.
Accordingly, Title 21, United States Code, Section 960(b)(2)(A)
applies to this offense.

All in violation of Title 21, United States Code, Section
952(a), and Title 18, United States Code, Section 2.

DRUG FORFEITURE ALLEGATION

(21 U.S.C. §853 -- Criminal Forfeiture)

The Grand Jury further charges that:

1. As a result of committing one or more of the offenses alleged in Count One through Count Three of this indictment,

- 1. CAESAR MERCEDES,**
- 2. FRANCISCO NAVARRO, and**
- 3. NOEL HERNANDEZ,**

defendants herein, shall forfeit to the United States, pursuant to 21 U.S.C. §853: (1) any and all property constituting or derived from any proceeds the said defendants obtained directly or indirectly as a result of the charged offenses; and (2) any and all property used or intended to be used in any manner or part to commit and to facilitate the commission of the offenses.

2. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be subdivided without difficulty; it is the intent of the United States, pursuant to 21 U.S.C. §853(p), to seek forfeiture of any other property of said defendants up to the value of the above

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forfeitable property.

All in violation of Title 21, United States Code, Section 853.

NOTICE OF ADDITIONAL FACTORS

The Grand Jury further finds that:

1. Defendant **CAESAR MERCEDES** is accountable for at least 100 grams, but less than 400 grams, of heroin. Accordingly, USSG §2D1.1(c)(7) applies to this defendant.

2. Defendant **FRANCISCO NAVARRO** is accountable for at least 400 grams, but less than 700 grams, of heroin. Accordingly, USSG §2D1.1(c)(6) applies to this defendant.

3. Defendant **NOEL HERNANDEZ** is accountable for at least 700 grams, but less than 1 kilogram of heroin. Accordingly, USSG §2D1.1(c)(5) applies to this defendant.

4. Defendant **NOEL HERNANDEZ** is a manager or supervisor in criminal activity that involved less than five participants. Accordingly, U.S.S.G. §3B1.1(c) applies to this defendant.

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A TRUE BILL

William J. Kelly
FOREPERSON OF THE GRAND JURY

William J. Kelly
ASSISTANT U.S. ATTORNEY

DISTRICT OF MASSACHUSETTS; October 14, 2004

Returned into the District Court by the Grand Jurors and
filed.

William J. Kelly
DEPUTY CLERK

10/14/04 12:43 PM

04 CR 10319 WGY
Criminal Case Cover Sheet **U.S. District Court - District of Massachusetts**Place of Offense: D MA Category No. II Investigating Agency ICECity Boston Related Case Information:County Suffolk Superseding Ind./ Inf. _____ Case No. _____
Same Defendant _____ New Defendant x _____
Magistrate Judge Case Number M-04-858-MBB _____
Search Warrant Case Number _____
R 20/R 40 from District of _____**Defendant Information:**Defendant Name Francisco Navarro Juvenile: ☐ Yes ☒ No

Alias Name _____

Address Puerto RicoBirthdate: _____ SS # _____ Sex: Male Race: Hispanic Nationalit DominicanDefense Counsel if known: Kathy Byrne, Esq. Address Federal Defenders, 408 Atlantic Ave,Bar Number _____ 617 223-8061**U.S. Attorney Information:**AUSA Robert Peabody Bar Number if applicable 551936Interpreter: ☒ Yes ☐ No List language and/or dialect: SpanishMatter to be SEALED: ☐ Yes ☒ No☐ Warrant Requested ☐ Regular Process ☒ In Custody**Location Status:**Arrest Date July 13, 2004☒ Already in Federal Custody as of July 13, 2004 in Plymouth HOC☐ Already in State Custody at _____ ☐ Serving Sentence ☐ Awaiting Trial☐ On Pretrial Release: Ordered by: _____ on _____Charging Document: ☐ Complaint ☐ Information ☒ IndictmentTotal # of Counts: ☐ Petty _____ ☐ Misdemeanor _____ ☒ Felony 2

Continue on Page 2 for Entry of U.S.C. Citations

☒ I hereby certify that the case numbers of any prior proceedings before a Magistrate Judge are accurately set forth above.Date: 10/14/04 Signature of AUSA: Robert H. Peabody

District Court Case Number (To be filled in by deputy clerk):

04 CR 10319 WGY

Name of Defendant Francisco Navarro

U.S.C. Citations

	<u>Index Key/Code</u>	<u>Description of Offense Charged</u>	<u>Count Numbers</u>
Set 1	<u>21 USC 963</u>	<u>Conspiracy to import heroin</u>	<u>1</u>
Set 2	<u>21 USC 952(a)</u>	<u>illegal importation of heroin</u>	<u>3</u>
Set 3	<u></u>	<u></u>	<u></u>
Set 4	<u></u>	<u></u>	<u></u>
Set 5	<u></u>	<u></u>	<u></u>
Set 6	<u></u>	<u></u>	<u></u>
Set 7	<u></u>	<u></u>	<u></u>
Set 8	<u></u>	<u></u>	<u></u>
Set 9	<u></u>	<u></u>	<u></u>
Set 10	<u></u>	<u></u>	<u></u>
Set 11	<u></u>	<u></u>	<u></u>
Set 12	<u></u>	<u></u>	<u></u>
Set 13	<u></u>	<u></u>	<u></u>
Set 14	<u></u>	<u></u>	<u></u>
Set 15	<u></u>	<u></u>	<u></u>

ADDITIONAL INFORMATION:

JS 45 (5/97) - (Revised U.S.D.C. MA 2/7/02)

Criminal Case Cover Sheet**U.S. District Court - District of Massachusetts**Place of Offense: D MA Category No. II Investigating Agency ICECity Boston Related Case Information:County Suffolk Superseding Ind./ Inf. _____ Case No. _____
Same Defendant _____ New Defendant x _____
Magistrate Judge Case Number M-04-858-MBB _____
Search Warrant Case Number _____
R 20/R 40 from District of _____**Defendant Information:**Defendant Name Noel Hernandez Juvenile: ☐ Yes ☒ No

Alias Name _____

Address Lynn, MABirthdate: _____ SS # _____ Sex: Male Race: Hispanic Nationalit DominicanDefense Counsel if known: Peter Horstman, Esq. Address 200 Berkeley Street, Boston 02116Bar Number _____ 617 859-9999**U.S. Attorney Information:**AUSA Robert Peabody Bar Number if applicable 551936Interpreter: ☒ Yes ☐ No List language and/or dialect: SpanishMatter to be SEALED: ☐ Yes ☒ No☐ Warrant Requested ☐ Regular Process ☒ In Custody**Location Status:**Arrest Date July 13, 2004☐ Already in Federal Custody as of _____ in _____☐ Already in State Custody at _____ ☐ Serving Sentence ☐ Awaiting Trial☒ On Pretrial Release: Ordered by: Mag. Judge Bowler on October 7, 2004Charging Document: ☐ Complaint ☐ Information ☒ IndictmentTotal # of Counts: ☐ Petty _____ ☐ Misdemeanor _____ ☒ Felony 3

Continue on Page 2 for Entry of U.S.C. Citations

☒ I hereby certify that the case numbers of any prior proceedings before a Magistrate Judge are accurately set forth above.Date: 10/14/04 Signature of AUSA: Robert Peabody

District Court Case Number (To be filled in by deputy clerk):**Name of Defendant** Noel Hernandez**U.S.C. Citations**

	<u>Index Key/Code</u>	<u>Description of Offense Charged</u>	<u>Count Numbers</u>
Set 1	<u>21 USC 963</u>	<u>Conspiracy to import heroin</u>	<u>1</u>
Set 2	<u>21 USC 952(a)</u>	<u>illegal importation of heroin</u>	<u>2, 3</u>
Set 3	<u></u>	<u></u>	<u></u>
Set 4	<u></u>	<u></u>	<u></u>
Set 5	<u></u>	<u></u>	<u></u>
Set 6	<u></u>	<u></u>	<u></u>
Set 7	<u></u>	<u></u>	<u></u>
Set 8	<u></u>	<u></u>	<u></u>
Set 9	<u></u>	<u></u>	<u></u>
Set 10	<u></u>	<u></u>	<u></u>
Set 11	<u></u>	<u></u>	<u></u>
Set 12	<u></u>	<u></u>	<u></u>
Set 13	<u></u>	<u></u>	<u></u>
Set 14	<u></u>	<u></u>	<u></u>
Set 15	<u></u>	<u></u>	<u></u>

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Criminal Case Cover Sheet**04 CR 10319 WGY****U.S. District Court - District of Massachusetts**Place of Offense: D MA Category No. II Investigating Agency ICECity Boston Related Case Information:County Suffolk Superseding Ind./ Inf. _____ Case No. _____
Same Defendant _____ New Defendant x _____
Magistrate Judge Case Number M-04-858-MBB _____
Search Warrant Case Number _____
R 20/R 40 from District of _____**Defendant Information:**Defendant Name Caesar Mercedes Juvenile: ☐ Yes ☒ No

Alias Name _____

Address Puerto RicoBirthdate: _____ SS # _____ Sex: Male Race: Hispanic Nationalit DominicanDefense Counsel if known: Michael Andrews, Esq. Address 21 Customs House, Boston, MABar Number _____ 617 951-0072**U.S. Attorney Information:**AUSA Robert Peabody Bar Number if applicable 551936Interpreter: ☒ Yes ☐ No List language and/or dialect: SpanishMatter to be SEALED: ☐ Yes ☒ No☐ Warrant Requested ☐ Regular Process ☒ In Custody**Location Status:**Arrest Date July 13, 2004☒ Already in Federal Custody as of July 13, 2004 in Plymouth HOC☐ Already in State Custody at _____ ☐ Serving Sentence ☐ Awaiting Trial☐ On Pretrial Release: Ordered by: _____ on _____Charging Document: ☐ Complaint ☐ Information ☒ IndictmentTotal # of Counts: ☐ Petty _____ ☐ Misdemeanor _____ ☒ Felony 2

Continue on Page 2 for Entry of U.S.C. Citations

☒ I hereby certify that the case numbers of any prior proceedings before a Magistrate Judge are accurately set forth above.Date: 10/14/04 Signature of AUSA: Robert Peabody

District Court Case Number (To be filled in by deputy clerk):

~~04-cr-10319-WGY~~Name of Defendant Caesar Mercedes

U.S.C. Citations

	<u>Index Key/Code</u>	<u>Description of Offense Charged</u>	<u>Count Numbers</u>
Set 1	<u>21 USC 963</u>	<u>Conspiracy to import heroin</u>	<u>1</u>
Set 2	<u>21 USC 952(a)</u>	<u>illegal importation of heroin</u>	<u>2</u>
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